

REMARKS

I. Overview

Claims 1, 3-16, and 18-20 are currently pending in this application. Claims 2 and 17 were canceled and claim 18 was amended in the Preliminary Amendment of September 24, 2003. Claim 1 has been amended by the present amendment. The current issues raised in the Non-Final Office Action of January 4, 2007 (*Office Action*) are as follows:

- Claims 1, 3-16, and 18-20 are rejected under the judicially created doctrine of obviousness-type double patenting; and
- Claims 1, 3-16, and 18-20 rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,151,689 (*Garcia*).

In response, Applicant respectfully traverses the outstanding claim rejections and requests reconsideration and withdrawal in light of the remarks presented herein.

II. Claim Amendments

Claim 1 has been amended to correct a grammatical error by adding the coordinating conjunction “and” before the last element recited in the claim. No new matter has been presented, and this amendment is not intended to narrow the scope of the claim.

III. Non-Statutory Double Patenting Rejection

Claims 1, 3-16, and 18-20 stand rejected under the judicially created doctrine of obviousness-type double patenting. *Office Action* at pp. 2-9. Concurrently with this Response to Non-Final Office Action, Applicant is filing two Terminal Disclaimers in compliance with 37 CFR 1.321(c) disclaiming the terminal part of the term of any patent issuing from the present application that extends beyond the expiration date of US. Patent Numbers 6,658,543 and 6,473,844. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

IV. Claim Rejections Under 35 U.S.C. 102(e) over *Garcia*

Claims 1, 3-16, and 18-20 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over *Garcia*. *Office Action* at p. 9. Applicant traverses the rejection and asserts that these claims are allowable, at least, for the reasons stated below.

To anticipate a claim under 35 U.S.C. § 102, a single reference must teach each and every element of the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). In fact, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Furthermore, for a reference to be anticipatory, “[its] elements must be arranged as required by the claim.” *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990), *cited in* M.P.E.P. § 2131.

A. Independent Claims 1, 8, and 15

Claim 1 recites, in part, “creating a single data packet, including . . . key data that is used to establish authorization to store said user data” Claim 8 recites, in part, “means for simultaneously delivering user data and key data . . . , wherein . . . said key data is used to establish authorization to store said user data” And claim 15 recites, in part, “code for composing a single data packet including user data and key data, wherein . . . said key data is used to establish authorization to store said user data”

The Examiner relies upon *Garcia*’s CRC bits as meeting the claimed key data. *Office Action* at p. 10 (“for example, the CRC may be the corresponding key data.”) However, CRC bits are not key data. Applicant has defined the term “key data” as meaning “data employed **to establish authorization** to store the data in the pertinent storage device.” *Specification* at ¶ [0010] (emphasis added). Meanwhile, *Garcia*’s CRC bits provide for “[e]rror checking of the communication flow between the components of the processing system” *Garcia* at col. 5, lns. 37-31. As a person of ordinary skill in the art would immediately recognize, merely checking for communication errors is not the same as establishing authorization to store data—*i.e.*, corrupted data packets may be transmitted by CPUs that have authorization to store data whereas uncorrupted data packets may be transmitted by CPUs that do not have authorization.

In other words, transmission errors that may affect a packet during a communication are irrelevant to establishing authorization.

Therefore, Applicant respectfully submits that *Garcia* does not teach every element of claims 1, 8, and 15. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 102(e) rejection of record with respect to these claims.

B. Dependent claims

Dependent claims 3-7, 9-14, 16, and 18-20 depend either directly or indirectly from claims 1, 8, and/or 15, each dependent claim thus inheriting all the limitations of its respective independent claim. As noted above, *Garcia* does not teach every element of independent claims 1, 8, and 15. Consequently, *Garcia* also fails to teach every element of dependent claims 3-7, 9-14, 16, and 18-20. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 102(e) rejection of record with respect to claims 3-7, 9-14, 16, and 18-20.

V. Conclusion

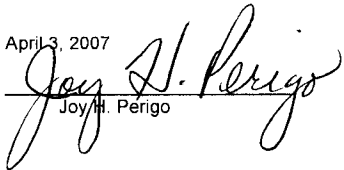
In view of the above remarks, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 10002762-3 from which the undersigned is authorized to draw.

Dated: April 3, 2007

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is e-filed on the date shown below.

Dated: April 3, 2007

Signature: 

Joy M. Perigo

Respectfully submitted,

By 

Michael A. Papalas

Registration No.: 40,381

(214) 855-8186

(214) 855-8200 (Fax)

Attorney for Applicant